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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,343	05/20/2002	Takao Yoshimine	450101-03178	8796

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EXAMINER	
CHEA, PHILIP J	

ART UNIT	PAPER NUMBER
2153	

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/019,343	YOSHIMINE, TAKAO	
	Examiner	Art Unit	
	Philip J. Chea	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *8-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *8-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 May 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to a Request for Continued Examination filed December 19, 2005. Claims 8-14 are currently pending. Any rejection not set forth below has been overcome by the current Amendment.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. A program-storing medium cannot be considered tangible if the medium is contained on communication medium such as cable or radio communications (e.g. a carrier wave, or transmission signal) mentioned in the specification. Therefore, the claim is lacking statutory subject matter.

The claim is non-statutory because the program-storing medium can be a carrier wave or transmission signal. The fact that it is for use with a computer does not make the intangible medium statutory.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 8,9,13,14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barraclough et al. (US 6301607), herein referred to as Barraclough, and further in view of Bandaru et al. (US 6,535,228), herein referred to as Bandaru.

As per claims 8,13,14, Barraclough discloses a data-providing apparatus attached to a plurality of user apparatuses over a network, said data-providing apparatus comprising:

a receiving unit configured to receive data transmitted from the plurality of said user apparatus (see column 2, lines 39-49, where web server inherently contains a receiving unit to accept the data, and implicitly, if not inherently, receives data from more than one user);

a user contents control unit configured to control recording of the data received by the receiving unit into a recording area corresponding to each user apparatus (see column 2, lines 46-49, where parsing and posting implies a recording media to web page);

a shared contents control unit configured to control the recorded contents set to be shared by a user who transmits contents (see column 2, lines 50-61, where a shared contents control unit is implied if not inherent with the selection of individuals to share data); and

a data-supplying unit configured to supply data set to be shared to the user apparatus in response to a demand made by the user apparatus (see column 2, lines 56-61).

Although the system disclosed by Barraclough shows substantial features of the claimed invention (discussed above), it fails to disclose a shared data flag, wherein the shared data flag indicates whether the user contents is set to be shared or not.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Barraclough, as evidenced by Bandaru.

In an analogous art, Bandaru discloses sharing an object in a network by one or more signals sent to a network server requesting the network server to share the object with a recipient (see Abstract), further showing a shared data flag, wherein the shared data flag indicates whether the user contents is set to be shared or not (see column 17, lines 10-26).

Given the teaching of Bandaru, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Barraclough by employing a shared data flag, such as disclosed by Bandaru, in order to easily identify which objects are selected for sharing.

As per claim 9, Barraclough in view of Bandaru further disclose a thumbnail-generating means for generating a thumbnail corresponding to data received by a receiving unit and thumbnail transmitting means for transmitting the thumbnail to a second data-processing apparatus (see Bandaru Fig. 13).

4. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barraclough in view of Bandaru as applied to claim 8 above, and further in view of Neel et al. (US 5,838,314).

As per claim 10, although the system disclosed by Barraclough in view of Bandaru shows substantial features of the claimed invention (discussed above), it fails to disclose that the shared determining whether the data should be paid for its use, when the data is supplied to a second data-processing apparatus.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Barraclough in view of Bandaru, as evidenced by Neel et al.

In an analogous art, Neel et al. disclose a video service system that provides video signals for programming via satellite link or broadband transmission links further disclosing determining whether data should be paid for its use, when the data is supplied to a second data-processing apparatus (see column 6, lines 7-25, where watching an advertisement instead of paying for the video programming is like getting a credit from the data-processing apparatus for watching the advertisement).

Given the teaching of Neel et al., a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Barraclough in view of Bandaru by determining whether data should be paid for its use, such as disclosed by Neel et al., in order to give a user an alternative to paying for movies.

As per claim 11, Barraclough in view of Bandaru in view of Neel et al. further disclose the shared contents control unit further determines a fee for the data when the data is supplied to a second data-processing apparatus (see Neel et al. column 6, lines 7-25).

As per claim 12, Barraclough in view of Bandaru in view of Neel et al. further disclose that the fee is an amount that the data-processing apparatus needs to pay to the second data-processing apparatus when the data is supplied to the second data-processing apparatus (see Neel et al. column 6, lines 7-25).

Response to Arguments

5. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Chea whose telephone number is 571-272-3951. The examiner can normally be reached on M-F 7:00-4:30 (1st Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Philip J Chea
Examiner
Art Unit 2153

PJC 12/29/05

KRISNA LIM
PRIMARY EXAMINER